

Original filed 6/13/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ADAM LEROY CARIS,)	No. C 03-3881 JF (PR)
)	
Petitioner,)	ORDER DENYING
)	PETITIONER'S MOTION FOR
vs.)	CERTIFICATE OF
)	APPEALABILITY
DERRAL G. ADAMS, Warden,)	
)	
Respondent.)	
)	(Docket No. 14)

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 12, 2006, the Court denied the instant petition on the merits and entered judgment in favor of Respondent. On June 7, 2006, Petitioner filed a notice of appeal and a motion for a certificate of appealability. The Court will deny the motion for a certificate of appealability (docket no. 14).

DISCUSSION

A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal). See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate must

1 indicate which issues satisfy this standard. Id. § 2253(c)(3).

2 “Where a district court has rejected the constitutional claims on the merits, the
3 showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate
4 that reasonable jurists would find the district court’s assessment of the constitutional
5 claims debatable or wrong.” Slack v. McDaniel, 120 S.Ct. 1595, 1604 (2000).

6 Except for substituting the word “constitutional” for the word “federal,” section
7 2253(c)(2) codified the standard announced by the United States Supreme Court in
8 Barefoot v. Estelle, 463 U.S. 880, 892-93 (1983). See Slack, 120 S. Ct. at 1603. In
9 Barefoot, the Court explained that “a substantial showing of the denial of [a] federal
10 right” means that a petitioner “must demonstrate that the issues are debatable among
11 jurists of reason; that a court could resolve the issues [in a different manner], or that the
12 questions are adequate to deserve encouragement to proceed further.” Barefoot, 463 U.S.
13 at 893 n.4 (citations and internal quotations omitted; emphasis in original). Any doubts
14 about whether the Barefoot standard has been met must be resolved in petitioner’s favor.
15 Lambright v. Stewart, 220 F.3d 1022, 1024-25 (9th Cir. 2000).

16 The Court denied the instant habeas petition after careful consideration of the
17 merits. The Court found no violation of Petitioner’s federal constitutional rights in the
18 underlying state court proceedings. Petitioner has failed to demonstrate that jurists of
19 reason would find it debatable whether this Court was correct in its ruling. Accordingly,
20 Petitioner’s motion for a certificate of appealability (docket no. 14) is DENIED. The
21 Clerk shall transmit the file, including a copy of this order, to the Court of Appeals.
22 Petitioner may then ask the Court of Appeals to issue the certificate. See Fed. R. App. P.
23 22(b).

24 IT IS SO ORDERED.

25 DATED: 6/13/06

26 
27 JEREMY FOGEL
28 United States District Judge

1 A copy of this order was mailed to the following:

2 Adam LeRoy Caris
3 K-87833/ B1-216
4 Salinas Valley State Prison
5 P.O. Box 1050
6 Soledad, CA 93960-1050

7 Sharon R. Wooden
8 CA State Attorney General's Office
9 455 Golden Gate Avenue
10 Suite 11000
11 San Francisco, CA 94102-7004
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28